

FILED & JUDGMENT ENTERED

Steven T. Salata

Mar 28 2016

Clerk, U.S. Bankruptcy Court
Western District of North Carolina



Laura T Beyer

Laura T. Beyer
United States Bankruptcy Judge

**IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

IN RE:)
)
YURII KOROTKOV) CASE NO. 09-31457
SSN: XXX-XX-8440)
)
IRYNA PAVLOVNA KOROTKOV) CHAPTER 13
SSN: XXX-XX-9624)
)
)
)
DEBTORS)

**CONSENT ORDER RESOLVING DEBTORS'
MOTION TO DEEM MORTGAGE LOAN ACCOUNT CURRENT AND MOTION
TO IMPOSE SANCTIONS AGAINST SUNTRUST MORTGAGE, INC. FOR
VIOLATION OF THE DISCHARGE INJUNCTION**

THIS CAUSE coming on before the United States Bankruptcy Judge for the Western District of North Carolina upon request of the Parties resolving the *Debtors' Motion to Deem Mortgage Loan Account Current and Motion to Impose Sanctions Against SunTrust Mortgage, Inc. for Violation of the Discharge Injunction* (the "Motion") and it appearing to the Court and the Court finding that:

1. The Debtors filed a Voluntary Petition pursuant to Chapter 13 of the United States Bankruptcy Code on June 5, 2009. Debtors subsequently received a standard discharge on December 17, 2014 and their case was closed on April 30, 2015.
2. SunTrust Mortgage, Inc. ("SunTrust"), is a secured creditor in this bankruptcy holding the Note secured on the property located at 3012 Twilight Lane, Indian Trail, North Carolina 28079 (the "Subject Property").

3. On or about August 26, 2009, Order Confirming Chapter 13 Plan was entered by the Court.
4. On or about September 22, 2009, SunTrust filed a proof of claim which listed pre-petition mortgage arrears as \$19,474.60.
5. On or about June 14, 2012, SunTrust filed a Motion for Relief from Stay which was subsequently resolved by the Consent Order entered on or about November 06, 2012. (*See*, Court Docket Nos. 34 and 36).
6. SunTrust filed a Notice of Mortgage Payment Change (*See*, Court Claim No.15) on or about April 10, 2014.
7. On or about Oct 29, 2015, Debtors' filed an Ex Parte Motion to Reopen Bankruptcy Case and the Motion in connection to this Response. (*See*, Court Docket Nos. 57 and 58)
8. On or about October 29, 2015, Debtors filed the pending Motion.
9. The Court entered Order Granting Motion to Reopen Bankruptcy Case on or about October 30, 2015. (*See*, Court Docket No. 59)
10. On or about January 25, 2016, SunTrust filed its Opposition to the Motion.
11. Debtors have returned the following checks previously received from SunTrust:
 - a. \$1,002.00 dated 05/20/15 (Received)
 - b. \$1,002.00 dated 06/18/15 (Received)
 - c. \$1,001.97 dated 07/16/15 (Received)
 - d. \$1,002.00 dated 08/14/15 (Received)
12. SunTrust has stopped payment on the following checks that were previously sent to the Debtors:
 - a. \$1,002.00 dated 10/19/15
 - b. \$1,002.00 dated 11/23/15
13. SunTrust expressly denies any liability to the Debtors as alleged in the Motion, and the Compromise set forth herein is not to be construed as an admission of liability on the part of SunTrust
14. In an effort to avoid further costs and litigation in this matter, all parties have agreed to settle their differences.

NOW, THEREFORE, based upon the foregoing stipulated facts, and with the consent of all parties, it is hereby ORDER, ADJUDGED and DECREED that:

1. Entry of this Order shall constitute a dismissal with prejudice of the above referenced Motion.
2. SunTrust will pay the Debtors' attorney, Matthew H. Crow, the sum of \$500.00 for attorney fees incurred in representing the Debtors in this matter within 30 days of the entry of this Order;
3. Upon receipt of the checks from the Debtor, SunTrust will bring the Debtors' mortgage account current through March 2016;
4. SunTrust will waive any foreclosure costs, interests, late fees and property inspection fees; and
5. The terms of this final settlement are a fair, prudent and reasonable compromise of the controversies raised in the Motion for Sanctions and such agreement is in the best interest of the Debtors.
6. This order shall constitute a release of liability for any and all allegations and claims asserted in the underlying Motion.
7. This consent order resolves all matters before the Court and all causes of action related to the Debtors' Motion to Deem Mortgage Loan Account Current and Motion to Impose Sanctions Against SunTrust Mortgage, Inc. for Violation of the Discharge Injunction filed on October 29, 2015.

s/: S. TROY STALEY
S. TROY STALEY, ATTORNEY FOR SUNTRUST MORTGAGE, INC.

s/: MATTHEW H. CROW
MATTHEW H. CROW, ATTORNEY FOR DEBTORS

NO PROTEST/NO OBJECTION

s/: WARREN L. TADLOCK
WARREN L. TADLOCK, TRUSTEE

**This Order has been signed electronically.
The Judge's signature and Court's seal
Appear at the top of the Order**

United States Bankruptcy Court

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